IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6166 OF 2007
IN
Exhibit No. 186 of 2007
IN
Obst.Notice No.69 of 2005
IN
Appeal No. 211 of 2004
In
RAE & R. Suit No. 539/1003 of 1999

1. Mr.Mohanrao Mallaiah Dussa & Anr. .. Petitioners.

V/s.

1. Smt. Sunanda R. Desai & Ors. .. Respondents.

Mr. P.S.Dani i/by Kiran Jain & Co.for the Petitioners.

Mr. G. Jain, the Respondent No.6 - in- person.

CORAM : S. A. BOBDE, J.

DATED : 29TH AUGUST, 2007.

P.C. :-

. Rule, returnable forthwith. Heard finally by consent of the parties.

2. It appears that the trial court has rejected permission to the hand writing expert to file a report. Strangely, the trial court has rejected the permission by making following observations :

> "In the said order Their Lordships of Bombay High Court have never permitted the

obstructionists to obtain fresh handwriting expert’s report."

3. As a matter of fact, there is nothing in the order of this court which refuses permission to the obstructionists to obtain hand writing expert’s report. The photographs were allowed to be taken of the original documents by this court. This was on the background that admittedly earlier the photographs were taken only of the photo copies and a report was filed on the basis of the said photographs of the photocopies. The obvious intention in passing the order in question by this court was to permit the hand writing expert to examine photographs of the original documents to facilitate his evidence. This was clearly not intended to prevent the hand writing expert from submitting a report. There is no reason why learned trial court ought to have understood the order in the manner it has.

4. In the circumstances, the impugned order refusing permission to hand writing expert to file a report is hereby set aside. The report shall be taken on record of the court in accordance with the procedure established by law.

5. Order accordingly. The petition is disposed of.

(S.A.BOBDE,J.)